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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

META PLATFORMS, INC., a Delaware  
corporation,

Plaintiff,

v.

BRIGHT DATA LTD., an Israeli corporation,

Defendant.

Case No. 3:23-cv-00077-EMC

**JOINT STIPULATION AND  
~~PROPOSED~~ ORDER REGARDING  
NON-WAIVER OF PRIVILEGE  
PURSUANT TO FEDERAL RULE OF  
EVIDENCE 502(d)**

Hon. Edward M. Chen  
Courtroom 5 - 17th Floor

1 WHEREAS, the parties have met and conferred regarding Bright Data’s request that Meta  
2 produce “[a]ll documents and communications relating to ‘the behavior and signature of Bright  
3 Data’s scraping traffic.’”

4 WHEREAS, Meta has agreed to produce data from the portions of the API tables it used  
5 to investigate Bright Data’s claims of data collection from Instagram—the data reflecting “the  
6 behavior and signature of Bright Data’s [suspected] scraping traffic.”

7 WHEREAS, Meta asserts that the data is situated within a document that was created at  
8 the direction of counsel because of this anticipated litigation and for the purpose of providing  
9 information to counsel to facilitate legal advice, and claims that the document is protected work  
10 product and privileged.

11 WHEREAS, Bright Data disagrees with the validity of Meta’s assertion of privilege, but  
12 will agree (without waiver of Bright Data’s ability to challenge any privilege assertion as to any  
13 withheld information) that the production of the redacted document will not constitute a waiver of  
14 the attorney-client privilege or work-product doctrine or any other privilege or protection in this  
15 or any other proceeding, and will not effect a subject matter waiver as to any subject matter,  
16 whether in this proceeding or any other proceeding.

17 WHEREAS, to enable Meta to provide the requested data and avoid burdening the Court  
18 with a potential discovery dispute, the parties have reached a compromise, in accordance with Fed.  
19 R. Evid. 502(d), pursuant to which Meta agrees, subject to and following entry of this Order, to  
20 produce the document in redacted form.

21 NOW THEREFORE, it is stipulated and agreed that:

- 22 • Subject to and conditioned upon the entry of this stipulation as an Order of the  
23 Court, Meta will produce a redacted version of the document containing data  
24 showing “the behavior and signature of Bright Data’s [suspected] scraping traffic.”
- 25 • The production of the redacted document will not constitute a waiver of the  
26 attorney-client privilege or work-product doctrine or any other privilege or  
27 protection in this or any other proceeding, to the fullest extent available under the  
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1 law, including Federal Rule of Evidence 502(d), as to the parties to this stipulation  
2 and any third parties. Bright Data agrees, in particular, that the production of the  
3 redacted document will not constitute a waiver of the attorney-client privilege or  
4 work-product doctrine or any other privilege or protection in any other proceeding  
5 involving Bright Data or any of its subsidiaries and/or affiliates, including  
6 proceedings in jurisdictions outside the United States.

- 7 • The production of the redacted document will not constitute a subject matter waiver  
8 as to any subject matter, whether in this proceeding or any other proceeding, to the  
9 fullest extent available under the law, including Federal Rule of Evidence 502(d),  
10 as to the parties to this stipulation and any third parties. Bright Data agrees, in  
11 particular, that the production of the redacted document will not constitute a subject  
12 matter waiver in any other proceeding involving Bright Data or any of its  
13 subsidiaries and/or affiliates, including proceedings in jurisdictions outside the  
14 United States.
  - 15 • Bright Data agrees that it will not seek disclosure of the withheld content on the  
16 grounds that Meta *waived* any applicable privilege by producing the redacted  
17 document, but may seek disclosure of the withheld content on any other grounds.  
18 Bright Data, accordingly, reserves its right to seek disclosure of withheld content  
19 on grounds other than waiver by reason of producing the redacted document.
  - 20 • Meta agrees that it will produce, within two weeks of the date of this stipulation, a  
21 privilege log for the redacted document.
  - 22 • The production of the redacted document does not itself entitle Bright Data to any  
23 other document withheld as privileged, or preclude Bright Data from seeking  
24 production of such documents.
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1 DATED: December 8, 2023

2 Respectfully submitted,

3 /s/ Sonal N. Mehta

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Respectfully submitted,

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*Attorneys for Defendant Bright Data Ltd.*

**CERTIFICATION**

I, Sonal Mehta, am the ECF User whose identification and password are being used to file this JOINT STIPULATION AND [PROPOSED] ORDER REGARDING NON-WAIVER OF PRIVILEGE PURSUANT TO FEDERAL RULE OF EVIDENCE 502(d). In compliance with Civil L.R. 5-1(i)(3), I hereby attest that each other signatory has concurred in this filing.

Dated: December 8, 2023

/s/ Sonal N. Mehta  
Sonal N. Mehta

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED that:

1. Pursuant to Federal Rule of Evidence 502(d), subject to and conditioned upon this Order, Meta will produce to Bright Data a redacted version of the document containing data reflecting “the behavior and signature of Bright Data’s [suspected] scraping traffic.”

2. The production of the redacted document will not constitute a waiver of the attorney-client privilege or work-product doctrine or any other privilege or protection, whether in this or any other proceeding, to the fullest extent available under the law, including Federal Rule of Evidence 502(d), as to the parties to this stipulation and any third parties.

3. Bright Data agrees that it will not seek disclosure of the withheld content on the grounds that Meta waived any applicable privilege by producing the redacted document, but may challenge the assertion of privilege or seek disclosure on any other grounds.

4. The production of the redacted document will not effect a subject matter waiver as to any subject matter, whether in this proceeding or any other proceeding, to the fullest extent available under the law, including Federal Rule of Evidence 502(d), as to the parties to this stipulation and any third parties.

5. In particular, the production of the redacted document will not constitute a waiver of the attorney-client privilege or work-product doctrine or a subject matter waiver in any other proceeding involving Bright Data or any of its subsidiaries and/or affiliates, including proceedings in jurisdictions outside the United States.

6. Meta agrees that it will produce, within two weeks of the date of the parties’ stipulation, a privilege log for the redacted document.

7. The production of the redacted document does not itself entitle Bright Data to any other document withheld as privileged, or preclude Bright Data from seeking production of such documents.

1 Dated: December 11, 2023

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3 The Honorable Alex G. Tse  
4 United States Magistrate Judge  
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